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Counsel for Defendant The State Bar of California,  
Hon. Judith Epstein, Hon. Madge Watai, Hon. Ronald Stovitz,  
Hon. Patrice McElroy, Scott Drexel, Lawrence J. DalCerro,  
Donald R. Steedman, Tammy Albertsen-Murray,  
Erica L. Dennings, Michael Hummer, Jeffrey Bleich  
and Sheldon Sloan

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

Francis Fahy,  
  
Plaintiff,  
  
v.  
  
Justices of the Supreme Court of the State of  
California, et al.,  
  
Defendants.

Case No. CV 08-2496-CW

STATE BAR DEFENDANTS' NOTICE  
OF MOTION AND MOTION TO  
DISMISS COMPLAINT

Date: Thurs, October 16, 2008  
Time: 2:00 p.m.  
Place: Courtroom 2, 4<sup>th</sup> Floor  
Judge: Hon. Claudia Wilken

TO: FRANCIS FAHY IN PRO SE:

PLEASE TAKE NOTICE that on, October 16, 2008, at 2:00 p.m. in the courtroom of the  
Honorable Claudia Wilken, being Courtroom 2 at 1301 Clay Street, Oakland, California 94612,  
counsel for defendants The State Bar of California, Hon. Judith Epstein, Hon. Madge Watai,  
Hon. Ronald Stovitz, Hon. Patrice McElroy, Scott Drexel, Lawrence DalCerro, Donald  
Steedman, Tammy Albertsen-Murray, Erica Dennings, Michael Hummer, Jeffrey Bleich, and

1 Sheldon Sloan (collectively "State Bar Defendants"), will and hereby do, move the Court for an  
2 order under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) to dismiss plaintiff's  
3 complaint.

4 State Bar Defendants will move to dismiss this action on the grounds that this Court lacks  
5 subject-matter jurisdiction pursuant to Eleventh Amendment immunity and the Rooker-Feldman  
6 doctrine. State Bar Defendants will further move to dismiss this action based on res judicata and  
7 collateral estoppel grounds, judicial immunity, and failure to state a claim.

8 The Motion will be based on this Notice of Motion and Motion, the Memorandum of  
9 Points and Authorities in support thereof and filed herewith, all pleadings in this action, and any  
10 other documents that are now on file or that may be on file in this action at the time of hearing;  
11 and such further evidence and arguments as may be presented at the time of hearing.

12 MOTION TO DISMISS

13 State Bar Defendants move to dismiss the Complaint on the following specific grounds:

- 14 1. Plaintiff's claims are jurisdictionally barred by the Eleventh Amendment;
- 15 2. Plaintiff's claims related to his first disciplinary proceeding are jurisdictionally  
16 barred under the Rooker-Feldman doctrine;
- 17 3. Plaintiff's claims are barred by res judicata and collateral estoppel;
- 18 4. The State Bar defendant is entitled to judicial immunity; and,
- 19 5. Plaintiff fails to state a claim for relief.

20 WHEREFORE, State Bar Defendants pray as follows:

- 21 1. That the Complaint and each claim for relief alleged therein be dismissed against  
22 State Bar Defendants without leave to amend;
- 23 2. That Plaintiff take nothing and judgment be entered in favor of State Bar  
24 Defendants; and

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1           3.       For such other relief as this Court deems just.

2   DATED: September 5, 2008

Respectfully submitted,

3                   MARIE M. MOFFAT  
4                   LAWRENCE C. YEE  
5                   MARK TORRES-GIL

6                   By:                   s/Mark Torres-Gil  
                              Mark Torres-Gil

7                   Counsel for Defendants The State Bar of California,  
8                   Hon. Judith Epstein, Hon. Madge Watai, Hon. Ronald  
9                   Stovitz, Hon. Patrice McElroy, Scott Drexel, Lawrence J.  
10                  DalCerro, Donald R. Steedman, Tammy Albertsen-Murray,  
11                  Erica L. Dennings, Michael Hummer, Jeffrey Bleich and  
12                  Sheldon Sloan

PROOF OF SERVICE BY MAIL

I, Joan Sundt, hereby declare: that I am over the age of eighteen years and am not a party to the within above-entitled action, that I am employed in the City and County of San Francisco, that my business address is The State Bar of California, 180 Howard Street, San Francisco, CA 94105.

On, September 5, 2008, following ordinary business practice, I placed for collection for mailing at the offices of the State Bar of California, 180 Howard Street, San Francisco, California 94105, one copy of THE STATE BAR DEFENDANTS' NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT fully prepaid in an envelope addressed as follows:

Francis Fahy  
259 Oak Street  
San Francisco, CA 94102

I am readily familiar with the State Bar of California's practice for collection and processing correspondence for mailing with the U.S. Postal Service and, in the ordinary course of business, the correspondence would be deposited with the U.S. postal mail service on the day on which it is collected at the business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California this 5th day of September, 2008.

s/Joan Sundt